



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Andreas Fellingner
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Title : STORAGE DEVICE FOR MEDICAL SWABS
Attorney File : RO0206US.CPA (#90568)

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RESPONSE TO OFFICE ACTION

REQUEST FOR RECONSIDERATION

In the Office Action mailed September 30, 2002, the Examiner has rejected claims 16-22. The Examiner has finally rejected claims 16 and 18 under 35 U.S.C. 102(b) as being anticipated by Roulin et al., U.S. Patent No. 5,695,063. Applicant respectfully traverses this rejection. Roulin et al. does not disclose that the blister package disclosed therein is flexible such that the device can be kept in stock rolled up. Instead, Roulin et al. disclose that their blister pack is made of plastic, for example, plastics such as PVC, polyamides, polyolefins, polyesters and laminates or multi-layered materials containing at least one of these materials (col. 1, lines 32-36). Whether a film made of such plastics is flexible depends on the thickness and size of the film, but values for these proportions are not disclosed by Roulin et al. The term "flexible" does not explicitly appear in the

CERTIFICATION MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

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Date:

January 30, 2003

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specification of Roulin et al. Applicant respectfully states that Roulin et al. disclose conventional blister packs which are known to be flexible in the meaning of "elastic", that is "capable of being easily stretched or expanded and resuming former shape" or "resisting deformation by stretching" (see *elastic* in www.merriamwebster.com). Hence, conventional blister packs do not remain rolled up but instead return to their flatten state upon release after being rolled up, thus, possessing a certain stiffness or rigidity. In contrast, in the present application, "flexible" means "pliable" or "adaptable", such that the device of the present invention will remain rolled up in stock or being concertinaed.

Roulin et al. has been studied again in detail, and there is not a single indication that the blister pack of this reference can be rolled up in any fashion. In fact, there is every indication that its base portion is rigid. Roulin et al. provides a "push-through pack" (column 1, line 25) where the recess, that is, the depressions in the base material, are pressed against the lid to make the contents cause the lid to rupture (column 1, lines 8-10). In every instance described in Roulin et al., the contents are described as being hard, i.e. tablets, dragées, pills, capsules, ampoules, bonbons, and lozenges (column 6, lines 32-38). Throughout the Roulin et al. patent, there are various reasons that the base portion must be rigid and not flexible so as to make the blister pack sufficiently flexible to make it be able to be rolled or concertinaed as set forth in the claims of the present application. In Figure 1 of Roulin et al., one must press the recess or depression 14 to drive the tablet or other contents of the recess against the lid foil to rupture the lid foil 13. This would not work with a flexible base and a soft contents of the recess such as a swab. The shoulders 11 must be rigid to enable the pressing of the recess and obtain the rupture of lid foil 13. Figure 2 of Roulin et al. shows a similar arrangement where two blister packs 30 are nested together with the recesses 32 being interlocked, and in abutment with the shoulders 31 of the other blister pack (column 4, lines 35-39). The bases 34 and shoulders 31 must be rigid in order for each blister pack to support the other. If

the bases were flexible as claimed in the present invention, the blister packs would droop and the nesting feature would be for naught. The embodiment of Figures 3A-3C of Roulin et al. require a rigid base 44 with a ring shaped clamp 45 for sliding across the pack (column 5, lines 25-36) - an operation which would not work if blister pack 40 were flexible as claimed in the present application. Figures 4A-4D of Roulin et al. show a blister pack 50 with clamping elements 55 for engaging the area between recesses 52 for being moved across the recesses as slides or cursors - although requiring rigidity of blister pack 50. Finally, Figure 5 shows a round blister pack 70 having a clamping ring 76 and a rotatable lid 75 for opening and closing recesses 72, a device clearly requiring it to be rigid and not flexible as presently claimed. Moreover, the materials stated for constructing the bases are rigid, including aluminum foil embedded in a plastic laminate or ceramic layers (column 2, lines 58-65). The types of blister pack discussed in Roulin et al. are widely known and rigidity is part of the basic function.

Further, the Roulin reference concerns blister packs which enable unused amounts of tablets or parts thereof to be stored safely until consumption (col. 2, first paragraph). Therefore, blister packs according to Roulin et al. are provided with adhesive joins 37 and a clamping element 35 which add rigidity to the blister pack and inhibit rolling the device. Applicant submits again that the present invention differs from the blister pack according to Roulin et al. in that the blister pack is not sufficiently flexible, that is, adaptable, such that the storage device can be kept in stock rolled up or concertinaed and respectfully requests that the Examiner should not broaden the language of Roulin et al. beyond its face to assume "flexible" means capable of being kept in stock rolled up or concertinaed. This is a specific limitation in claims 16 and 18 which is not found in Roulin et al., wherefor Roulin et al. cannot support a rejection under 35 U.S.C. 102(b). Thus, applicant respectfully requests that this rejection be withdrawn.

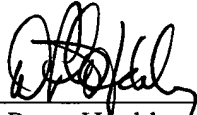
Also, the Examiner has finally rejected claim 18 under 35 U.S.C. 102(b) as being anticipated by Grabowski, U.S. Patent No. 5,954,204. Applicant respectfully traverses this rejection. Applicant reiterates that the present invention differs from the blister pack according to Grabowski in that applicant's invention can be kept in stock rolled up or concertinaed. Grabowski specifically states that the "blister layer is formed from a substantially rigid material" (column 1, lines 55-56). Neither "flexible" nor "elastic" appear in Grabowski's specification or claims. Applicant respectfully notes that since the primary object of Grabowski to provide a container for receiving and storing individual articles of medication (column 1, line 40-42) is different from applicant's, it is not surprising that the invention would use different materials with different characteristics. As above, applicant respectfully requests that the Examiner should not broaden the language or disclosure of Grabowski beyond its face to assume that both the foil and the plastic material are flexible, and capable of being stored rolled up or concertinaed. This is a specific limitation in claim 18 which is not found in Grabowski et al., wherefor Grabowski et al. cannot support a rejection under 35 U.S.C. 102(b).

The Examiner has rejected claims 17 and 19 under 35 U.S.C. 103(a) as being unpatentable over Roulin et al. in view of Troll et al., U.S. 3,311,229 or Gregory et al., U.S. Patent No. 4,305,502. Applicant reiterates that Roulin et al. does not disclose or teach all of the limitations found in applicant's claims 16 and 18 and that claim 17 depends from claim 16 and incorporates all of the limitations therein, and claim 19 depends from claim 18 and incorporated all of the limitations therein, so that using Roulin et al. in combination with any other reference will not anticipate applicant's invention. Thus, applicant respectfully requests that the rejection of claims 17 and 19 under 35 U.S.C. 103(a) be withdrawn.

It is respectfully submitted that the application is now in condition for allowance, and such action is requested. No new matter has been added. The examiner is invited to telephone the

undersigned if there are any matters which could be discussed to expedite the prosecution of the above-identified application.

Respectfully submitted,

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